

REMARKS

This Response is offered in reply to the Office Action mailed July 16, 2002.

Applicant appreciates and acknowledges allowance of claims 11-38. Applicant has amended claims 11-38. For example, in the depending claims, the terminology "characterised in that" has been replaced by --wherein--. Also, the reference numerals have been deleted from these claims. Claim 29 has been amended to depend from claim 18, rather than claim 1, to provide antecedent basis for the control device. Others of these claims 11-38 have been amended to place them in better form under Section 112.

Favorable consideration of the amendments to claims 11-38 is requested.

In paragraph 1 of the office action, claims 1-10 are rejected under 35 USC 102(b) in view of the Huber US Patent 6 130 516.

Pending claim 1 is believed allowable over the Huber '516 patent. For example, pending claim 1 recites a monitoring device for checking for a predefined position of a body or for checking for the presence of a body wherein the device comprises a pivotal checking element, a motor for driving the checking element, a housing for accommodating the motor, and a seal which is arranged between the checking element and the housing around a shaft by means of which the checking element is driven, wherein the seal abuts on the checking element and abuts on the housing.

In contrast, the Huber '516 patent discloses a double lip seal 28 for sealing the passage of the shaft 26 through the face-sided cover of the housing 16 against chips and coolant (see patent column 2, lines 64-67) and O-rings seals 30 for sealing the respective face-sided cover of the housing 16 (see patent column 2, line 67 through column 3, line 1).

Contrary to the examiner's allegation on page 2, paragraph 1 of the office action, the Huber '516 patent does not disclose a seal between a checking element and a housing around a shaft by means of which the checking element is driven. In particular, the seal 30 referred to by the examiner is not disposed between housing 16 and pin holder 32 having pin 34 as is clear in Figure 1 of the Huber '516 patent. The O-rings seals 30 are present for sealing the respective face-sided cover of the housing 16 (see patent column 2, line 67 through column 3, line 1).

The Huber '516 patent does not disclose a seal between a checking element and a housing wherein the seal abuts on the checking element and abuts on the housing. The O-rings seals 30 of the Huber '516 patent are present for sealing the respective face-sided cover of the housing 16 (see patent column 2, line 67 through column 3, line 1). Figure 1 of the patent clearly shows that O-ring seals 30 do not abut on the pin holder 32 and do not abut on the housing 16.

The Huber '516 patent thus is utterly silent with respect to Applicant's claimed monitoring device of pending claim 1.

The same is true with respect to pending claim 3 which recites that the seal is formed symmetrically about an axis. As mentioned above, the Huber '516 patent does not disclose a seal between a checking element and a housing around a shaft by means of which the checking element is driven wherein the seal abuts on the checking element and abuts on the housing.

The Huber '516 patent is utterly silent with respect to pending claim 4 which recites that the seal is seated between the checking element and the housing co-axially relative to the shaft.

The Huber '516 patent is utterly silent with respect to pending claim 5 which recites that an intermediate space is formed between the shaft and the seal.

The Huber '516 patent is utterly silent with respect to pending claim 6 which recites that the seal is adapted to be rotationally fixed relative to the checking element.

The Huber '516 patent is utterly silent with respect to pending claim 7 which recites that the checking element comprises a mounting element for the seal onto which the seal is adapted to be disposed in order to fix the seal non-rotationally on the checking element.

The Huber '516 patent does not disclose the features of pending claim 8 which recites that the mounting element is formed by a mounting ring through which the shaft is guided and onto which the seal is adapted to be disposed.

The Huber '516 patent does not disclose the features of pending claim 9 which recites that an annular recess for accommodating the seal is formed between the mounting element and the checking element.

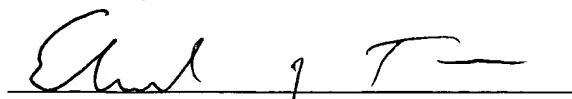
The Huber '516 patent does not disclose the features of pending claim 10 which recites that an outer diameter of the seal substantially corresponds to the diameter of the checking element.

Applicants have added new claim 39 that is beleived allowable also.

Applicant believes pending claims 1-10 and new claim 39 are allowable along with pending claims 11-38, and action to that end is requested.

The Commissioner is authorized to charge the fee for new claim 39, or any other fee in connection with this response to my deposit account No. 20-1124.

Respectfully submitted,



Edward J. Timmer

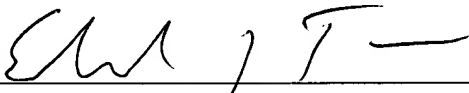
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page 18 USSN 09/758 513

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on October 15, 2002.



Edward J. Timmer